

AMENDED IN SENATE APRIL 8, 2010

SENATE BILL

No. 900

Introduced by Senator Alquist

January 26, 2010

An act to add Division 114 (commencing with Section 135000) to the Health and Safety Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 900, as amended, Alquist. California Health ~~Insurance~~ *Benefits Exchange*.

Existing law, the federal Patient Protection and Affordable Care Act, requires each state to, by January 1, 2014, establish an American Health Benefit Exchange that makes available qualified health plans to qualified individuals and qualified employers, as specified, and meets certain other requirements. Existing law provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and the regulation of health insurers by the Department of Insurance. Existing law creates the California Health and Human Services Agency, which consists of various departments.

This bill would establish the California Health Benefits Exchange (the Exchange) within the California Health and Human Services Agency and would require the Exchange to, among other things, implement specified functions imposed by the federal Patient Protection and Affordable Care Act in a consumer-friendly manner, enter into contracts with health care service plans and health insurers seeking to offer coverage in the Exchange, and provide a choice in each region of the state between 5 levels of coverage, as specified. The bill would authorize the Exchange to take other various actions and would require the Exchange to be governed by a board composed of an unspecified

number of members appointed by the Governor and the Legislature in an unspecified manner. The bill would create the California Health Benefits Exchange Fund in the State Treasury and would authorize the board to use moneys in the fund, upon appropriation by the Legislature, for purposes of these provisions.

~~Existing law does not provide a system of health care coverage for all California residents. Existing law provides for the creation of various programs to provide health care coverage to persons who have limited incomes and meet various eligibility requirements. These programs include the Healthy Families Program, administered by the Managed Risk Medical Insurance Board, and the Medi-Cal program, administered by the State Department of Health Care Services and county welfare departments. Existing law provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and for the regulation of health insurers by the Department of Insurance. Existing law creates the California Health and Human Services Agency, which consists of various departments.~~

~~This bill would establish the California Health Insurance Exchange within the California Health and Human Services Agency. The bill would require the exchange to, among other things, provide, or make available, health care coverage through participating health plans; determine eligibility, enrollment, and disenrollment criteria and processes, authorize expenditures from the California Health Insurance Exchange Fund, which the bill would create in the State Treasury, and be governed by an unspecified board whose members would be appointed by the Legislature.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Division 114 (commencing with Section 135000)
2 is added to the Health and Safety Code, to read:

3

4 DIVISION 114. CALIFORNIA HEALTH INSURANCE
5 BENEFITS EXCHANGE

6

7 135000. (a) There is hereby established in the California Health
8 and Human Services Agency, the California Health Insurance
9 Benefits Exchange.

1 ~~(b) For purposes of this division, “exchange” means the~~
2 ~~California Health Insurance Exchange established by this section.~~

3 ~~(c) The exchange shall do all of the following:~~

4 ~~(1) Determine eligibility, enrollment, and disenrollment criteria~~
5 ~~and processes for the exchange, consistent with federal law.~~

6 ~~(2) Determine the participation requirements and the standards~~
7 ~~and selection criteria for participating health plans, including~~
8 ~~reasonable limits on a plan’s administrative costs.~~

9 ~~(3) Enter into contracts, including selective provider contracts~~
10 ~~with health plans.~~

11 ~~(4) Negotiate rates paid to participating health plans.~~

12 ~~(5) Provide, or make available, health care coverage through~~
13 ~~participating health plans.~~

14 ~~(6) Provide for the offering of one or more community benefit~~
15 ~~plans, including, but not limited to, local initiative plans, county~~
16 ~~organized health systems, joint ventures of local initiative plans~~
17 ~~and county organized health systems, self-funded plans, and other~~
18 ~~plans authorized by federal law.~~

19 ~~(7) Provide for the processing of applications and the enrollment~~
20 ~~and disenrollment of exchange enrollees, and the administration~~
21 ~~of federal subsidies for exchange enrollees.~~

22 ~~(8) Employ necessary staff.~~

23 ~~(9) Authorize expenditures, as necessary, from the fund~~
24 ~~established under Section 135005 to pay exchange expenses that~~
25 ~~exceed enrollee contributions and to administer the exchange.~~

26 ~~(10) Receive federal funds for administration of the exchange.~~

27 ~~(11) Be governed by a board whose members are appointed by~~
28 ~~the Legislature. This board shall hold public meetings on a~~
29 ~~bimonthly basis.~~

30 *135001. For purposes of this division, the following definitions*
31 *shall apply:*

32 *(a) “Board” means the board described in subdivision (g) of*
33 *Section 135004.*

34 *(b) “Carrier” means either a private health insurer holding a*
35 *valid outstanding certificate of authority from the Insurance*
36 *Commissioner or a health care service plan, as defined under*
37 *subdivision (f) of Section 1345, licensed by the Department of*
38 *Managed Health Care, including, but not limited to, a local*
39 *initiative plan, a county organized health system, or a joint venture*
40 *of local initiative plans and county organized health systems.*

1 (c) “Exchange” means the California Health Benefits Exchange
2 established by Section 135000.

3 (d) “Fund” means the California Health Benefits Fund
4 established pursuant to Section 135009.

5 (e) “Health plan” and “qualified health plan” have the same
6 meanings as those terms are defined in Section 1301 of the Act.

7 (f) “The Act” means the federal Patient Protection and
8 Affordable Care Act (Public Law 111-148).

9 135002. The purpose of this division is to implement the
10 provisions of the Act requiring the establishment of an American
11 Health Benefit Exchange in this state by creating an exchange in
12 state government.

13 135003. It is the intent of the Legislature that the Exchange
14 provide a consumer friendly process that facilitates the seamless
15 enrollment of individuals in health care coverage.

16 135004. The Exchange shall do all of the following:

17 (a) Meet the requirements imposed by Section 1311 of the Act.
18 The Exchange shall perform all of the following functions in a
19 consumer-friendly manner:

20 (1) Provide for the operation of a toll-free telephone hotline to
21 respond to requests for assistance.

22 (2) Maintain an Internet Web site through which enrollees and
23 prospective enrollees of qualified health plans may obtain
24 standardized comparative information on those plans.

25 (3) Assign a rating to each qualified health plan offered through
26 the Exchange in accordance with the criteria developed under
27 paragraph (3) of subdivision (c) of Section 1311 of the Act.

28 (4) Utilize a standardized format for presenting health benefits
29 plan options in the Exchange, including the use of the uniform
30 outline of coverage established under Section 2715 of the federal
31 Public Health Service Act.

32 (5) Consistent with the system established under Section 1413
33 of the Act, inform individuals of eligibility requirements for the
34 Medi-Cal program, the Healthy Families Program, or any
35 applicable state or local public health care coverage program
36 and, if, through screening of an application by the Exchange, the
37 Exchange determines that an individual is eligible for any of those
38 programs, enroll the individual in that program.

39 (6) Establish and make available by electronic means a
40 calculator to determine the actual cost of coverage after the

1 application of any premium tax credit under Section 36B of the
2 Internal Revenue Code of 1986 and any cost-sharing reduction
3 under Section 1402 of the Act.

4 (7) Grant a certification, subject to Section 1411 of the Act and
5 any implementing regulations, attesting that, for purposes of the
6 individual responsibility penalty under Section 5000A of the
7 Internal Revenue Code of 1986, an individual is exempt from the
8 individual responsibility requirement or from the penalty imposed
9 by that section because of either of the following:

10 (A) There is no affordable qualified health plan available
11 through the Exchange, or the individual's employer, covering the
12 individual.

13 (B) The individual meets the requirements for any other
14 exemption from the individual responsibility requirement or
15 penalty.

16 (b) Negotiate and enter into contracts, including selective
17 provider contracts, with carriers seeking to offer coverage in the
18 Exchange.

19 (c) Establish quality incentives and rewards consistent with
20 subdivisions (g) and (h) of Section 1311 of the Act, including, but
21 not limited to, incentives that encourage the use of delivery systems
22 that deliver cost-effective, high-quality care.

23 (d) Provide a choice of health plans in each region of the state,
24 including a choice in each region of the state between the five
25 levels of coverage contained in subdivisions (d) and (e) of Section
26 1302 of the Act.

27 (e) Employ necessary staff, including actuarial staff.

28 (f) Be governed by a board with four-year terms whose members
29 are appointed by the Governor and the Legislature. This board
30 shall hold public meetings on a bimonthly basis, or more frequently
31 as necessary.

32 (g) Receive federal funds for purposes of establishing and
33 administering the Exchange, including funds made available
34 pursuant to Section 1311 of the Act.

35 135005. The Exchange may do any of the following:

36 (a) Issue rules and regulations, as necessary. Until January 1,
37 2014, any rules and regulations issued pursuant to this subdivision
38 may be adopted as emergency regulations in accordance with the
39 Administrative Procedure Act (Chapter 3.5 (commencing with
40 Section 11340) of Part 1 of Division 3 of Title 2 of the Government

1 Code). The adoption of these regulations shall be deemed an
2 emergency and necessary for the immediate preservation of the
3 public peace, health and safety, or general welfare.

4 (b) Apply for and receive funds from private foundations.

5 (c) Exercise the federal option set forth in paragraph (2) of
6 subdivision (b) of Section 1311 of the Act to provide a single
7 exchange for providing services to both qualified individuals and
8 qualified small employers, if the Exchange makes all of the
9 following determinations:

10 (1) Providing coverage through a single exchange will provide
11 a significant benefit for the health coverage marketplace in the
12 state.

13 (2) Providing coverage through a single exchange will be cost
14 effective for both qualified individuals and qualified small
15 employers.

16 (3) The Exchange can make coverage available through a single
17 exchange on a guarantee issue basis without undue risk of adverse
18 selection.

19 (d) Enter into other contracts as are necessary or proper to
20 carry out the duties of the Exchange, including, but not limited to,
21 contracts for enrollment processing.

22 (e) Determine the health benefits coverage for small employers
23 that the Exchange will contract to purchase from participating
24 carriers.

25 (f) Appoint committees, as necessary, to provide technical
26 assistance in the operation of the Exchange.

27 (g) Undertake activities necessary to administer the Exchange,
28 including marketing and publicizing the Exchange and establishing
29 rules, conditions, and procedures for ensuring carrier, employer,
30 and enrollee compliance with Exchange requirements, consistent
31 with federal law and regulations.

32 (h) Consistent with federal procedures established under
33 subdivision (e) of Section 1312 of the Act, establish procedures to
34 allow agents or brokers to do both of the following:

35 (1) Enroll individuals in any qualified health plan in the
36 individual or small group market as soon as the plan is offered
37 through the Exchange.

38 (2) Assist individuals in applying for premium tax credits and
39 cost-sharing reductions for health plans sold through the
40 Exchange.

1 135006. (a) Notwithstanding any other provision of law, the
2 Exchange shall not be subject to licensure or regulation by the
3 Department of Insurance or the Department of Managed Health
4 Care.

5 (b) Carriers that contract with the Exchange shall be in good
6 standing with their respective regulatory agencies.

7 135007. If an individual or an employer is dissatisfied with
8 any action or failure to act that has occurred in connection with
9 eligibility for, or enrollment in, the Exchange, the individual or
10 employer shall have the right to appeal to the board and shall be
11 accorded an opportunity for a fair hearing. Hearings shall be
12 conducted pursuant to the provisions of Chapter 5 (commencing
13 with Section 11500) of Part 1 of Division 3 of Title 2 of the
14 Government Code.

15 135008. Nothing in this division shall be construed to compel
16 an individual to enroll in a qualified health plan or to participate
17 in the Exchange.

18 ~~135005.~~

19 135009. (a) The California Health Insurance Benefits Exchange
20 Fund is hereby created in the State Treasury as a special fund
21 consisting of revenue necessary for the purposes of this division.
22 Any moneys in the fund that are unexpended or unencumbered at
23 the end of a fiscal year may be carried forward to the next
24 succeeding fiscal year.

25 (b) ~~The governing board of the exchange board~~ shall establish
26 a prudent reserve in the fund.

27 (c) Moneys in the fund shall, upon appropriation by the
28 Legislature, be used by the ~~governing board of the exchange board~~
29 for the purposes of this division.

30 (d) Notwithstanding Section 16305.7 of the Government Code,
31 all interest earned on the moneys that have been deposited into the
32 fund shall be retained in the fund.